

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

JAMES RAY BARTLETT V. STATE OF TENNESSEE

Appeal from the Circuit Court for Lincoln County
No. S0300064 Charles Lee, Judge

No. M2003-02000-CCA-R3-HC - Filed October 18, 2004

The petitioner, James Ray Bartlett, appeals from the dismissal of his petition for the writ of habeas corpus. The state has filed a motion requesting that this Court affirm the trial court's denial of relief pursuant to Rule 20, Rules of the Court of Criminal Appeals. We find the State's motion has merit. Accordingly, the motion is granted and the appeal is affirmed pursuant to Rule 20, Rules of the Court of Criminal Appeals.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Trial Court is Affirmed.

JERRY L. SMITH, J., delivered the opinion of the court, in which DAVID H. WELLES, and ROBERT W. WEDEMEYER, JJ., joined.

James Ray Bartlett, pro se, Clifton, Tennessee.

Paul G. Summers, Attorney General & Reporter; Renee W. Turner, Assistant Attorney General, for the appellee, State of Tennessee.

MEMORANDUM OPINION

On June 18, 2001, the defendant pled guilty in Lincoln County General Sessions Court to two misdemeanor charges of passing worthless checks. See Tenn. Code Ann. § 39-14-121. The general sessions judge sentenced him to sentences of eleven months and twenty-nine days, with all suspended except for nine months in the county jail. The defendant appealed his sentences to the circuit court, which conducted a sentencing hearing. The circuit court sentenced him to two concurrent sentences of eleven months and twenty-nine days to be served in the county jail. The sole issue on appeal was whether the trial court erred by denying probation. State v. James Ray Bartlett, No. M2001-02419-CCA-R3-CD, 2002 WL 31158616 at *1 (Tenn. Crim. App. Sept. 20, 2002) (no app. filed).

Although in custody at the South Central Correctional Facility in Wayne County, Tennessee, the petitioner filed a habeas corpus petition in the Lincoln County Circuit Court, the court of conviction. On April 8, 2003, the Lincoln County Circuit Judge dismissed the petition. Rather than appeal the dismissal of his petition, on June 23, 2003, the petitioner re-submitted the petition that had been dismissed on April 8. Finding that the “re-submitted” petition was simply a reiteration of the grounds in the first petition, the trial court dismissed the “re-submitted” petition on July 10, 2003. On August 10, 2003 the petitioner filed a notice of appeal to this Court.

Analysis

Tennessee Code Annotated section 29-21-105 requires that a habeas corpus petition be filed where the petitioner is located unless a sufficient reason for filing elsewhere is stated. In the instant case the petitioner has failed to comply with this statute and this alone is an adequate basis for dismissing his petition. See Clifford W. Rogers v. State, No. W2002-02268-CCA-R3-CO, 2003 Tenn. Crim. App. LEXIS 326 (Tenn. Crim. App. at Jackson, April 1, 2003); Fred B. Lingenfelter v. State, No. W2002-01454-CCA-R3-PC, 2003 Tenn. Crim. App. LEXIS 294 (Tenn. Crim. App. at Jackson, March 25, 2003).

Conclusion

For the foregoing reasons the State’s motion to affirm, pursuant to Rule 20, Rules of the Court of Criminal appeals is GRANTED. This judgment of the trial court is AFFIRMED.

JERRY L. SMITH, JUDGE